MOTION FOR ELECTION TO THE CARDAMOM BOARD

THE DEPUTY MINISTER IN THE MINISTRY OF COMMERCE (SHRI P. A. SANGMA): Sir, I move:

"That in pursuance of clause (c) of sub-section (3) of section 4 of the Cardamom Act, 1965 (42 of 1965) read with rule 5(1) of the Cardamom Rules, 1966, this House do proceed to elect, in such manner, as the Chairman may direct, one member from among the members of the House to be a member of the Cardamom Board."

The question was put and the motion was adopted.

REFERENCE TO THE ALLEGED BREAKDOWN OF CONSTITUTIONAL MACHINERY IN J AND K

SHRI LAL K. ADVANI (Madhya Pradesh): Mr. Deputy Chairman, Sir, I am grateful to you for permitting me to raise this matter and I will try to do it as dispassionately as I can without importing any emotion into the matter, though I am aware that various sides of the House and various parties outside may be emotionally involved in it.

Sir, I think that the situation that obtains today is that of a grave constitutional crisis. When the Constitution-framers framed article 356 and spoke about the breakdown of the constitutional machinery, it was situations of this kind that they had in mind. Here is a situation in which the Speaker of the Assembly referred the case of 12 or 13 Members of the House to the High Court for disqualification. According to him, according to his interpretation of the Anti-Defection Law in force in that State these 13 Members had incurred the disqualification, and they could no longer continue to be Members of the House. And so he referred their matter to the High Court. Yesterday morning he sought to withdraw this reference from the High Court. I do not know why. I am of the view that he caanot withdraw it. (*Interruptions*). Please bear with me.

MR. DEPUTY CHAIRMAN: Just hear him.

SHRI LAL K. ADVANI: I am of the view that if he had withdrawn, still the High Court had the right to pronounce on the original petition, whether he withdrew earlier or not. The fact that he had referred it to the High Court meant that he had accepted that it is the High Court that has jurisdiction in the matter and it is for the High Court to decide whether they are disqualified or whether they continue to be the Members. If the Speaker thinks that what he did yesterday was right, namely, that he could on his own declare them disqualified, declaring the seats vacant, then he need not have referred it to the High Court at all. In all these matters you can always have two views. I am not a lawyer. Mr. Bhardwaj is a lawyer. You can have two views on whether what he first did was right or whether what he later did was right. There will be many in the National Conference who might be accusing him of doing the wrong thing first and the right thing later. But that is a different matter. My view is that the Speaker did not do the right thing when he declared these people as disqualified and declared their seats vacant. Declaring seats vacant, as far as I can understand, is the job of the Election Commission, and not of the Speaker. The other day I criticised the Governor of Jammu & Kashmir for usurping the authority of the Election Commission, the Speaker and the Assembly, I would make a similar charge against the Speaker also today for usurping the authority which does not vest in him. But the fact is that he has done it. Those Members who think that he has done something

wrong, they have a sanction provided in the Constitution of India, and also of Jammu & Kashmir, how remedial action can be taken if they think that the Speaker has done something wrong or the Chairman of the House has done something wrong, or the Deputy Chairman has done something wrong.

The sanction available is under the Constitution; there is a way; there is a modality whereunder someone of the House who thinks that the Speaker has done wrong, can take action, that is, action for removal. One has to give notice he just cannot rush to the podium and physically remove the Speaker and instal another Speaker by a majority and say that he is no longer the Speaker and so and so is now the Speaker. This is what has happened. I just got the news that the Speaker was physically removed and in this place . . . (*Interruptions*).

SHRI GHULAM RASOOL KAR (Nominated): There was a motion in the House against the Speaker . . . (*Interruptions*).

SHRI DIPEN GHOSH (West Bengal): So long he was good, and now... (*Interruptions*).

SHRI P. N. SUKUL (Uttar Pradesh): Sir, on a point of order..... (*Interruptions*).

SHRI DIPEN GHOSH: What a joke! You support him first from that side and as soon as he says . . . (*Interruptions*).

MR. DEPUTY CHAIRMAN: Mr. Sukul, there is no point of order, Please take your seat. Mr. Advani, you proceed.

SHRI SULTAN SINGH (Haryana): I am on a point of order.

MR. DEPUTY CHAIRMAN: I can hear all of you one by one; let him finish and you can reply to his points. But I will not allow you at at this stage.

श्री मोर्जा ईशबिबेन ऐयुबबेग गुज(रात) : नो कांफिडेंस मोशन रखने से उनको कैसे रोका जा सकता है ?

श्री रामानन्द यादव (बिहार) : श्रीमन मेरी भी सबमिशन है . . . (**व्यवधान**) ।

श्री सुशील चन्द्र महन्त (हरियाणा) : मैंने इस बारे में पहले आपको कहा है, इसलिए मुझे पहले बोलने दीजिए . . . (**व्यवधान**) ।

श्री उपसभापति : आप बैठ जाइये, मैं दोनों तरफ के सदस्यों को सुनूंगा ।

श्री सुलतान सिंह : श्रीमन्, मेरा पाइन्ट आफ आर्डर है . . . (**व्यवधान**) । पहले आप मेरा पाइन्ट आफ आर्डर सुन तो लीजिए ।

MR. DEPUTY CHAIRMAN: There is no point of order.

SHRI LAL K. ADVANI: What I was submitting was, they are making long speeches; I do not want to make a long speech here, but I only say.... (*Interruptions*).

SHRI SULTAN SINGH: Point of order, Sir.

MR. DEPUTY CHAIRMAN: There is no point of order here.

SHRI SULTAN SINGH. Without listening how can you say there is no point of order.

MR. DEPUTY CHAIRMAN: No, I will not allow.... (*Interruptions*). All right you say but that will not be recorded unless I say so.

SHRI SULTAN SINGH: (Not *re-rorded*).

SHRI LAL K. ADVANI: It may not be a point of order but I appreciate his point of view that we, in this

[Shri Lal K. Advani]

House, should not encroach upon the sphere and jurisdiction of any other Legislative Assembly; I would be scrupulous about it.

SHRI SULTAN SINGH: But you are encroaching.

SHRI LAL K. ADVANI: Not at all: I am only saying what is under the Constitution, and whether the Government of that State is being run in accordance with the Constitution or not. To ensure this is the responsibility of the President, that is, of the Central Government, and so of this Parliament. It should be the concern of Parliament. My submission is that in the present situation, the judgement of the High Court has to be honoured. Even though in this House and in the other House, sometimes the view expressed is that Parliament is sovereign and the judiciary has no right to say anything in relation to internal working of Parliament or a legislature, my view has been that so far as interpretation of the Constitution and the law is concerned, it is the judiciary which is the final authority and not the Parliament or the legislature. Friends from that side should bear this in mind.

My specific submission, therefore, is, the Government should come out with a detailed and formal statement on all aspects of the situation. Secondly, they should call for a report from the Governor as to what exactly and precisely has happened. My view is, the Constitution has broken down in Jammu and Kashmir, there is a serious constitutional crisis, to resolve which the only course open is to impose President's Rule in that State, to dissolve the State Assembly, to hold fresh elections and to give the people of Jammu and Kashmir an opportunity to have a fresh mandate. Thank you.

MR. DEPUTY CHAIRMAN: Mr. Anand Sharma please. (*Interruptions*) I will not allow anybody.

SHRI ANAND SHARMA (Himachal Pradesh): Mr. Deputy Chairman, Sir, I have to draw your attention once again to a very serious matter about which a Calling Attention Notice has been given, signed by me and a number of other Members, regarding the activities of some non-resident Sikhs in U.S.A. (*Interruptions*) Since yesterday, there has been another serious development. I hope, even my friends on the other side, those who are objecting, have read in the newspapers as to what happened when the hockey match was being played between India and the United States. They also know what kind of resolutions have been adopted in the meeting which was held at Maddison Square, which was also addressed by a U.S. Congressman This is a very serious situation. This is a very serious happening and this is a matter of serious concern for all of us and we want some time to be fixed for a discussion on this.

(*Interruptions*)

SHRI PARVATHANENI UPENDRA (Andhra Pradesh): We support his demand.

(*Interruptions*)

MR. DEPUTY CHAIRMAN: Mr. Ghulam Rasool Kar please.

(*Interruptions*).

SHRI DIPEN GHOSH: Sir, I rose first. (*Interruptions*)

MR. DEPUTY CHAIRMAN: Mr. Ghosh, nothing will be lost if you speak after a few minutes. Let him have his say. Then, you can reply to his points also.

SHRI DIPEN GHOSH: So long you have been following the procedure that during Zero Hour, when important issues are raised, the Leaders of the parties from the Opposition side are called first and then the Members from the Treasury benches. But at that time..... (*Interruptions*), When you gave precedence to Mr. Advani, I did not object.

MR. DEPUTY CHAIRMAN: You do not know, Mr. Ghosh.

SHRI DIPEN GHOSH: I know, he gave notice. That is why, I conceded. But you told me that you will call me later. This is not fair. (*Interruptions*)

SHRI SUSHIL CHAND MOHUNTA: Sir, I have given a Calling Attention Notice.

MR. DEPUTY CHAIRMAN: You are wasting the time of the House. By this time, Mr. Kar would have made his submission. Mr. Kar please.

श्री गुलाम रसूल कार : डिप्टी चेयरमैन साहब, मुझे इस बात का जबर्दस्त अफसोस है कि अपोज़ीशन पार्टियां सूबाई इख्तियारात के लिए बाहर प्रोपेगंडा करती हैं कि सूबों को ज्यादा अख्तियारात होने चाहिएं । जम्मू और काश्मीर का एक अलहिदा कांस्टिट्यूशन है और इस कांस्टिट्यूशन के नाते जो कुछ भी वहां हो रहा है और उस बात को बार बार यहां पर अपोजिशन वाले जो ला रहे हैं वह इस बात का खुद गवाह है कि वे रियासत के अन्दरूनी मामलात में दखल देना चाहते हैं। जहां एक तरफ रियासत की खुद मुख्तियारी अंदरूनी हालत और अख्तियारात को ज्यादा ढूंढते हैं वहां जो प्रोविजन हमारे कांस्टिट्यूशन में हैं, उन प्रोविजन्स के होते हुए या कांस्टिट्यूशन के होते हुए इस बात की दलील देते हैं तो साफ है कि ये बाहर कुछ बात करते हैं और हाउस में दूसरी बात करते हैं । 2 जुलाई को वाक्या हुआ । 12 एम० एल० एज० ने स्पिल्ट किया नेशनल कान्फ्रेस से । उन्होंने अपना डिमॉस्ट्रेशन गवर्नर के सामने पेश कर दिया । उसके बाद गवर्नर ने हुकूमत के लिए उनको दावत दी । चीफ विप नेशनल कान्फ्रेस ने दरख्वास्त दी कि यह डिफेक्शन हैं । उन्होंने खुद इस पर फैसला नही दिया । उन्होंने रेफरेंस कांस्टिट्यूशन दफा 90 के तहत चीफ जस्टिस कोदे दिया । उसका रैफरेन्स पेश हुआ नेशनल कान्फ्रेस की तरफ से और साविका ला मिनिस्टर जो कि फारूक अब्दुल्ला की सरकार में ला मिनिस्टर थे, उन्होंने किया । बहस के दौरान इस बात डेवलपम हो गई थी कि चीफ विप ने खुद दरख्वास्त दी और इस रैफरेन्स के लिए जो दरख्वास्त दी थी, स्पीकर इसको वापस लेना चाहते हैं ? बहस के दौरान चीफ जस्टिस ने फैसला किया कि मुझे इस रेफरेन्स पर फैसला देना चाहिए । बहस मुबाहसा के बाद यह बात इस नुक्त उरूज पर पहुंची कि चीफ जस्टिस ने फैसला देना था तब स्पीकर ने अपने रेफरेन्स को वापस लेने की ख्वाहिस जाहिर की और उस वक्त चीफ जस्टिस ने अपना फैसला दिया कि यह कोई डिफेक्शन नहीं यह स्पिल्ट विदइन दि पार्टी हैं । यह पार्टी में स्पलिट हैं, लीडर के खिलाफ अदशएतमाद हो तो डिफेक्शन बिल में कोई ऐसी दफा नहीं है । यह स्पलिट विदइन दि पार्टी है । तो जब आज हाउस को मीट करना था तो स्पीकर जिसके खिलाफ 14 दिन पहले 15 दिन पहले वीट आफ नो-कान्फिडेंस मोशन लाया माना गया था अंडर कांस्टिट्यूशन एंड रूल्स, तो आज जब वे हाउस में आये तो उनके खिलाफ जो मोशन आफ-नो-कान्फिडेन्स था उसकी बिना पर उनको प्रिजाइड नही करना चाहिए था । वहां प्वांइट ज आफ आर्डर हुआ कि आपके खिलाफ वोट आफ नो-कान्फिडेन्स मोशन है, इसलिए आपको प्रिसाइड नहीं करना चाहिए । वहां डिप्टी स्पीकर का वजूद नहीं है क्योंकि वे मिनिस्टर हो गए हैं । इसलिए वहां हाउस को श्री मंगतराम ने प्रिसाइड किया । हाउस वाजाफ्ता चल रहा है । मेरी समझ में नहीं आता कि यह कैसे कांस्टिट्यूशन के अगेंस्ट है । कांस्टिट्यूशन के तहत हाउस चल रहा है, वाजाफ्ता वहा पर स्पीकर की कुर्सी पर श्री मंगतराम जो कि हाउस के एम० एल० ए० हैं, मेम्बर हैं, वे प्रीजाइड

(श्री गुलाम रसूल कार)

कर रहे हैं तो मेरी समझ में नहीं आता कि अपोजिशन वाले क्या चाहते हैं ।

†[شری غلام رسول کار : ڈپٹی

چیئرمین صاحب - مجھے اس بات کا از حد افسوس ہے کہ جہاں اپوزیشن پارٹیاں صوبائی اختیارات کیلئے باہر پروپیگنڈہ کرتی ہیں کہ صوبوں کو زیادہ اختیارات ہونے چاہئیں - جموں و کشمیر کا ایک علیحدہ کانسٹی ٹیوشن ہے اور اس کانسٹی ٹیوشن کے تحت جو کچھ بھی وہاں ہو رہا ہے اور اس بات کو بار بار یہاں پر اپوزیشن والے جو لا رہے ہیں وہ اس بات کا خود گواہ ہے کہ وہ ریاست کے اندرونی معاملات میں دخل دینا چاہتے ہیں - جہاں ایک طرف ریاست کی خود مختیاری - اندرونی حالت اور اختیارات کو زیادہ ڈھونڈتے ہیں وہاں جو پرویژن ہمارے کانسٹی ٹیوشن میں ہے ان پرویژنس کے ہوتے ہوئے یا کانسٹی ٹیوشن کے ہوتے ہوئے اس بات کی دلیل دیتے ہیں تو صاف ہے کہ یہ باہر کچھ کہتے ہیں اور ہاؤس میں دوسری بات کرتے ہیں - ۲ جولائی کا واقعہ ہوا - ۱۲ ایم - ایل - ایز - نے اسپلٹ کیا نیشنل کانفرنس سے - انہوں نے اپنا ڈمونسٹریشن گورنر کے سامنے پیش کر دیا - اسکے بعد گورنر نے حکومت کیلئے انکو دعوت دی - چیف وھپ نیشنل کانفرنس نے درخواست دی کہ یہ ڈفیکشن ہے - انہوں نے خود اسپر فیصلہ نہیں دیا - انہوں نے ریفرنس کانسٹی ٹیوشن دفعہ نمبر ۹۰ کے تحت چیف جسٹس کو دیدیا - اسکا ریفرنس پیش ہوا نیشنل کانفرنس کی طرف سے اور سابقہ لا منسٹر جوکہ فاروق عبداللہ کی سرکار میں لا منسٹر تھے ان ہوں نے کیا - بحث کے دوران یہ بات ڈیولپ ہو گئی تھی کہ چیف وھپ نے خود درخواست دی اور اس ریفرنس کیلئے جو درخواست دی تھی اسپیکر اسکو واپس لینا چاہتے ہیں - بحث کے دوران چیف جسٹس نے فیصلہ دیا کہ مجھے اس ریفرنس پر فیصلہ دینا چاہئے - بحث و مباحثہ کے بعد یہ بات اس نکتہ عروج پر پہنچی کہ چیف جسٹس نے فیصلہ دینا تھا تب اسپیکر نے اپنے ریفرنس کو واپس لینے کی خواھش ظاہر کی اور اسوقت چیف جسٹس نے اپنا فیصلہ دیا کہ یہ کوئی ڈفیکشن نہیں یہ اسپلٹ ددود ان دی پارٹی ہے - یہ پارٹی میں اسپلٹ ہے - لیڈر کے خلاف عدم اعتماد ہو تو ڈفیکشن بل میں کوئی ایسی دفعہ نہیں ہے - یہ اسپلٹ ددود ان دی پارٹی ہے -

†[ ] Transliteration in Arabic script.

تو آج جب کہ ہاؤس کو میٹ کرنا تھا تو اسپیکر جلکے خلاف ۱۴ دن پہلے - ۱۵ دن پہلے ووٹ آف نو کونفیڈنس موشن لایا گیا تھا انڈر کانسٹی‌ٹیوشن ایند رولس - تو آج جب وہ ہاؤس میں آئے تو ان کے خلاف جو موشن آف نو کونفیڈنس تھا تو اس کی بنا پر ان کو پریسائیڈ نہیں کرنا چاہئے تھا وہاں پوائنٹ آف آرڈر ہوا کہ آپ کے خلاف ووٹ آف نو کونفیڈنس موشن ہے اس لئے آپ کو پریسائیڈ نہیں کرنا چاہئے - وہاں ڈپٹی اسپیکر کا وجود نہیں ہے کیونکہ وہ منسٹر ہو گئے ہیں اسلئے وہاں ہاؤس کو شری منگت رام نے پریسائیڈ کیا - ہاؤس باضابطہ چل رہا ہے - میرے سمجھ میں نہیں آتا کہ یہ کیسے کانسٹی‌ٹیوشن کے اگینسٹ ہیں - کانسٹی‌ٹیوشن کے تحت ہاؤس چل رہا ہے باضابطہ وہاں پر اسپیکر کی کرسی پر شری منگت رام جو کہ ہاؤس کے ایم - ایل - اے - ہیں، ممبر ہیں، وہ پریسائیڈ کر رہے ہیں تو میری سمجھ میں نہیں آتا کہ اپوزیشن والے کیا چاہتے ہیں -]

श्री जे० के० जैन (मध्य प्रदेश) : उपसभापति महोदय, अब छोड़िये, हो गया ।

श्री गुलाम रसूल कार : ऐसा ही डी० एम० के० के साथ मद्रास में हुआ था। चीफ मिनिस्टर के खिलाफ अदमा-एतमाद में स्पीकर की कुर्सी पर किसी दूसरे शख्स को बिठा दिया गया और उसको कुर्सी दे दी । स्पीकर जिसके खिलाफ वोट आफ नो-कान्फिडेन्स था उसकी कार्रवाई नोट नही हुई और जिससे हाउस की कुर्सी पर सदारत के लिए रखा उसके फैसले को माना गया । यह हुआ है और वहा पर यह कोई बात नहीं है ।

†[شری غلام رسول کار : ایسا ہی ڈی - ایم - کے - کے ساتھ مدراس میں ہوا تھا - چیف منسٹر کے خلاف عدم اعتماد میں اسپیکر کی کرسی پر کسی دوسرے شخص کو بٹھا دیا گیا اور اسکی کرسی دیدی - اسپیکر جسکے خلاف ووٹ آف نو کونفیڈنس تھا اسکی کارروائی نوٹ نہیں ہوئی اور جسکو ہاؤس کی کرسی پر صدارت کیلئے رکھا اسکے فیصلہ کو مانا گیا - یہ ہوا ہے اور وہاں پر یہ کوئی نئی بات نہیں -]

SHRI DIPEN GHOSH: Mr. Deputy Chairman, Sir, it is known to everybody, to you and to others also, whether the 12 or 14 members of the National Conference who joined the other group were defectors or not. The case was referred to the High Court and the High Court has taken a position. Now the High Court has taken a certain position and the Speaker has taken another position. So, the question is whether the High Court's Writ will run inside the House or the Speaker's writ will run inside the House. These are the two conflicting views and that is the whole question to be decided.

As you know, recently there was the Presiding Officers Conference and the consensus at the Conference was that inside the House the Speaker or the Presiding Officer's view or writ will run and the judiciary has no right to interfere with the views of the Presiding Officers. (*Interruptions*).

†[ ] Transliteration in Arabic script.

SHRI SAT PAUL MITTAL (Punjab): It is all irrelevant, out of context.

SHRI DIPEN GHOSH: I am not going to battle over this sophistry. The point is, the Government was left with only two options. (*Interruptions*) Again, the Minister of State for Parliamentary Affairs is asking the other Members to disrupt me The other day he did it and I brought it to your notice. This is not fair on the part of the Minister. (*Interruptions*)

MR. DEPUTY CHAIRMAN: He is saying he is not doing it.

SHRI DIPEN GHOSH: I am not a blind person.

SHRI PARVATHANENI UPENDRA: No, he dots it daily.

SHRI J. K. JAIN: He has got a jaundiced eye. Remove that jaundiced glass from your eyes.

SHRI DIPEN GHOSH: Who has got the jaundiced eye I know that.

The point is, the Government was left with two options. Either the matter was to be referred to the Supreme Court or the House was to be prorogued. Instead of doing either of these two options....

MR. DEPUTY CHAIRMAN: He says the House is going on.

SHRI DIPEN GHOSH: Wherefrom he got the information, I have also got the information from there. The point is instead of taking either of these options, the Speaker of the House has been physically ejected from the House and kept under lock and key in another chamber.

SEVERAL HON. MEMBERS: No, no. (*Interruptions*)

SHRI DIPEN GHOSH: In this way those people are trying to implement the constitutional provisions in J&K. So, Sir, in my opinion there has been a constitutional crisis of first rate. And so the Assembly has to be dissolved. (*Interruptions*) Instead—and this is what Mr. Kar wanted to know—let all the parties go to the people of Jammu and Kashmir and get a fresh mandate to rule that State. If they have got the courage, let them go to the people of Jammu and Kashmir and get a mandate from the people to rule that State. (*Interruptions*)...

SHRI K. MOHANAN (Kerala): You cannot face the people.

SHRI DIPEN GHOSH: If you have got the courage, you face the people. (*Interruptions*) Go and depend upon the people.

श्री सतपाल मित्तल : हमारी भी सुनिये ।

श्री उपसभापति : आपकी भी सुनेंगे ।

SHRI SUSHIL CHAND MOHUNTA: A great constitutional crisis has been perpetrated in J&K by the unwise act of the Governor. (*Interruptions*) *Now* let me speak. If the Government had exercised proper discretion and not given recognition to the 12 defectors, this constitutional crisis would not have come up. But the position, they are faced with now is that the Speaker made a reference to the High Court. The point is that the person who does an act, who has the authority to act, has an authority to revoke that act also.

SEVERAL HON. MEMBERS: No, no. (*Interruptions*)

श्री गुलाम रसूल कार : शाह साहब ने मेजारिटी डिक्लेयर कर दी, अपोज़ीशन को क्या चाहिए । . . . (व्यवधान)

SHRI SUSHIL CHAND MOHUNTA: This is inbuilt; this is a fundamental principle of law. If you have the authority to pass a law, you also have the authority to repeal it, If you have

the authority to appoint an officer, you also have the authority to remove him.

MR. DEPUTY CHAIRMAN: You and we shall not decide that matter. It is for the court to tell them.

SHRI SUSHIL CHAND MOHUNTA: I am only pointing out the crisis. I am not giving the final verdict. If you have the authority to appoint a Governor, you also have the authority to withdraw the Governor. (*Interruptions*) Similarly the Speaker exercised his discretion and referred the matter to the High Court. But the most unwise thing that was done was that the Governor summoned the House to meet on the 31st before the High Court gave its verdict. He should have waited for the High Court verdict. Now a situation arose, when a reference had been made to the High Court and the High Court had not given its findings, the Speaker was faced with a situation as to what was to be done next day. So what he did was, he withdrew the reference and passed an order which he thought to be proper. I would disagree with Mr. Advani when he says the High Court was right, the Speaker was wrong. This is a very important point and should not be decided in a slipshod manner. (*Interruptions*) The crisis created as a result of the unwise act of Governor must be debated in the House.

MR. DEPUTY CHAIRMAN: It is being debated just now. That is all, please.

SHRI SYED SIBTEY RAZI (Uttar Pradesh): Sir, I would like to raise a point.

SHRI SUSHIL CHAND MOHUNTA: Sir, this House and the other House are both responsible to see that the Constitution runs properly and that the writ of the Constitution runs. If there is a breakdown of the constitutional machinery anywhere.... (*Interruptions*).... I do not know why they are getting up.... (*Interruptions*)....

श्री उपसभापति : अब आप खत्म करिये।

SHRI SUSHIL CHAND MOHUNTA: If there is a breakdown in the constitutional machinery, is if the constitutional machinery is suffering a jolt, it is the bounden duty of the Government to dissolve the House and order fresh elections. In a democratic set-up the only yardstick for measuring the will of the people is by getting their votes, by getting their mandate. There is no other method.... (*Interruptions*)..... Just the last sentence. I am very sorry to say that the other side has got a way of living as number two people: They live on number two currency, they live on number two ideals. This back-door entry in Kashmir is another number two item, which I oppose with all my strength ..... (*Interruptions*)

SHRI HANSRAJ BHARDWAJ (Madhya Pradesh): Sir, they talk of democracy. Now it is a question of interpretation of the Anti-Defection Act. Kindly see. This is a question of interpretation, and who is going to interpret the laws? It is the High Court. The Speaker went as a petitioner before the High Court. The High Court interpreted this, but the petitioner now wants to become the judge. This is the crux of the matter. The petitioner goes to the High Court, argues the case, places his viewpoints before the High Court and then finds that it is going against him....(*Interruptions*)....They say, "No, you are not the judge, we are." Then these people have been encouraging and Farooq Abdullah and company are creating the statutory crisis. It is sheer contempt of court and nothing else.

MR. DEPUTY CHAIRMAN: The matter is over now. Several viewpoints have been expressed and the

[Mr. Deputy Chairman]

matter is over. Both sides have explained their points of view. Now it is for the Jammu and Kashmir Assembly to decide. It is none of our business. We cannot go into the details of the working of the Jammu and Kashmir Assembly. It is for them to decide what they want to do. This House is not concerned with its functioning. Now we go to Calling Attention.

श्री राम चन्द्र विकल (उत्तर प्रदेश): ज़रा हमारी भी सुन लीजिए ।

MR. DEPUTY CHAIRMAN: Please take your seat. Now the matter is over .... (*Interruptions*) आप बैठ जाइये, सवाल ख़त्म हो गया ।.... (व्यवधान)

SHRI SURESH KALMADI (Maharashtra): We demand elections there.

MR. DEPUTY CHAIRMAN: That point has been made. Yes, Mr. Jadhav.

SHRI VITHALRAO MADHAVRAO JADHAV (Maharashtra): Sir,..... (*Interruptions*) .....

SHRI J. K. JAIN: Sir, I am on a point of order... (*Interruptions*)

SHRI JAGESH DESAI (Maharashtra): Sir, yesterday I had given notice regarding ....(*Interruptions*). Our national flag was dishonoured.

श्री उप-सभापति : देखिये, यह तो आपने नोटिस दिया हुआ है, जिस पर अभी विचार चल रहा है । अभी फैसला नहीं हुआ है ।

SHRI DARBARA SINGH (Punjab): Sir, yesterday you told us you were going to give us time .....(*Interruption*).... Kindly gives time to expose those people for unnecessarily interfering in our internal matters.

SHRI SYED SIBTEY RAZI: Sir, this is another matter; this is connected with the debate on Punjab. A conference was held in New York where it was decided by a resolution that they would not sit idle, they would not sit easy until Khalistan was formed. There were two representatives of the US Congress and this is a very important matter. And they have decided to take up the matter of Punjab before the Sub-Committee of the Senate on 7th August, 1984.

Now it is a complete infringement and attack on sovereignty of independent country. So, I request, as I requested previously also, that the Government should come out with a clear statement on this and a full discussion should be held on it. This is a very important matter. There will be no Kashmir if India is not there. There will be no Tamil Nadu if India is not there. The whole country will be destroyed. Let there be a promise that discussion of the matter will be there so that all the divisive forces. . . .

SHRI LAL K. ADVANI: We support it.

SHRI SYED SIBTEY RAZI: We want that the Government should make a statement.

MR. DEPUTY CHAIRMAN: Now the matter has been raised....

SHRI K. MOHANAN: We support it. Let there be a discussion.

MR. DEPUTY CHAIRMAN: ... We have received your notices and we are considering them. If the Government is going to make a statement, let them make it. I am not going to withhold it.

SHRI LAL K. ADVANI: Mr. Deputy Chairman, Sir, just on a point of clarification...

MR. DEPUTY CHAIRMAN: No information. Let us go over to the Calling Attention.

SHRI LAL K. ADVANI: In the other House it was said that the Government will make a statement.

THE LEADER OF THE HOUSE (SHRI PRANAB KUMAR MUKHERJEE): Here there has been some confusion created. Please take your seat. I am clarifying and sharing the information with you. At least Mr. Advani and other senior Members will appreciate that this type of thing may take place every day. Just as we have no control over the Members, if they go and join and some congregation, it is not a Government matter. Therefore, I can assure them that if the Government makes a statement there, they will take a statement in this House also. It will not bar discussion in other form if it comes up. That is a matter we have to decide in the Business Advisory Committee. Now that they have placed a demand for discussion, let it go to the Business Advisory Committee.

SHRI SURESH KALMADI: What about the security of the Indian Olympic teams? Officers have been insulted, the team players have been insulted. We must arrange for their protection. It is a question of security for the persons. The Government must ensure that. ... (Interruptions)

श्री उपसभापति : मैं कोई बात नहीं सुनुगा ।

श्री राम चन्द्र विकल : काश्मीर पर चर्चा जो शुरू हुई है।

श्री उपसभापति : वह खत्म हो गई।

श्री राम चन्द्र विकल : आपने यह भी कहा कि मैं हर एक को सुनूंगा । फिर हमको क्यों नहीं सुनना चाहते : ... (**व्यवधान**)

श्री उपसभापति : नहीं, अब वह खत्म हो गई ।

एक माननीय सदस्य : यह दूसरा विषय है । ..... (**व्यवधान**) इस चर्चा को आपने शुरू करवा दिया है ।

श्री उपसभापति : वह विषय खत्म हो गया ।

श्री **सैयद अहकद हाशमी** : (उत्तर प्रदेश) हम तो यह चाहते है कि यह चर्चा हो । ... (**व्यवधान**) काश्मीर के विषय के ऊपर ...(**व्यवधान**) मैं सोचता हूं कि ये लोग पब्लिक में जाने से क्यों घबराते हैं।

SHRI SURESH KALMADI: Sir, what steps is the Government taking about the security of the Indian teams at the Olympics? I would like to know that.

MR. DEPUTY CHAIRMAN: Mr. Hashmi, please take your seat. Only Mr. Jain. I am not allowing anybody else. The discussion is over.

श्री जे० के० जैन (मध्य प्रदेश) : माननीय उप सभापति महोदय, यह जो कालिंग अटेंशन के ऊपर आज यहां यह जो चर्चा होने जा रही है इसमें आपने यह एडमिट किया है कि महाराष्ट्र के अन्दर कैपिटेशन फीस चार्ज की जा रही है । मेरा निवेदन यह है कि वहां कैपिटेशन फीस चार्ज की जा रही है या कालिंग अटेंशन के स्कोप को बढ़ा दिया जाए; क्योंकि आपको भी जानकारी है और हमको भी है । .....(**व्यवधान**)

श्री उपसभापति : हमको जानकारी नही है । जो कालिंग अटेंशन मेम्बर ने दिया वह एडमिट हो गया । आपको पहले चाहिए था । ....(**व्यवधान**)

श्री जे० के० जैन : मुझे कहने दीजिए। जिस समय आप कालिंग अटेंशन एडमिट करते हैं तो ऐसा नहीं है, जो भी कालिंग अटेंशन आता है) आप एडमिट कर देते हैं....(**व्यवधान**) ... ठहरिए आप । कई बार हमने काल-

श्री जे० के० जैन

अटेंशन लाकर दिए हैं ... (**व्यवधान**) ... नहीं, मेरा कहने का मतलब यह है कि ... (**व्यवधान**)

SHRI PARVATHANENI UPENDRA (Andhra Pradesh): Your party has given the notice.

SHRI J. K. JAIN: Please. What is this? Let me have my say, please.

श्री उपसभापति : अभी वे बोल रहे हैं और बीच में आप बोलने लगे । आप संक्षिप्त में बताएं ।

श्री जे० के० जैन : मेरा सिर्फ निवेदन यह है कि केपीटेशन फीस चार्ज करने के जो मामले हैं, वेस्ट बंगाल में, कर्नाटक में और आंध्र प्रदेश में हैं ... (**व्यवधान**) ... सर, या तो आप अपनी रूलिंग दे दीजिए कि इस काल-अटेंशन का स्कोप बढ़ाने जा रहे हैं ताकि हम लोग भी कुछ बोल सकें और बाद में मंत्री जी उसका जबाब दें । यह तो केवल महाराष्ट्र से कनेक्टेड रखा है तो मेरा निवेदन है कि सर, आप रूलिंग दें यह जो काल-अटेंशन है, सारे भारतवर्ष में जहां भी केपीटेशन फीस हो, वहां तक लागू करेंगे । नहीं तो इसको आप कल के लिए स्थगित कर दें ताकि जहा-जहां केपीटेशन फीस है, उसे देखकर मंत्री महोदय अपना जबाब दे सकें ।

SHRI DIPEN GHOSH (West Bengal): There is no capitation in West Bengal.

SHRI VITHALRAO MADHAVRAO JADHAV (Maharashtra): Sir, in the notice which was given by me was mentioned capitation fee, admission in medical colleges in Maharashtra, Karnataka and other parts of India. It was given like that. Signatures were collected from my party collegues and other collegues on that notice. But it has been misprinted. I feel like that. It was given for the entire country, not for Maharashtra alone.

SHRI J. K. JAIN: It is a very serious matter because the hon. Minister is also saying that the notice was for the whole country. (*Interruptions*)

MR. DEPUTY CHAIRMAN: Please here me first.

श्री रामानन्द यादव (बिहार) : इसमें डिलीट करके दूसरा नाम दे दिया था . .

श्री उपसभापति : देखिए रामानन्द यादव, आप कृपा करके हमारे दफ्तर के ऊतर गलत आरोप मत लगाया करिए । मैं आपसे अनुरोध करूंगा, प्रार्थना करूंगा कि आप मेरे दफ्तर में आइए और इस बात को दिखाइए कि क्या है ?

Mr. Jadhav, please read the copy of the notice again. Please do not dispute about it. What has been admitted is correct.

SHRI DIPEN GHOSH: I am on a point of order.

SHRI J. K. JAIN: There are two notices, Sir.

SHRI DIPEN GHOSH: A serious charge has been brought by Mr. Jadhav, the first name in the Calling Attention motion which has been reported to have been admitted. He says that in the text of his notice the charge of the capitation fee was referred to the whole of the country and not to the State of Maharashtra alone. You please read out the notice and let the House know whether Mr. Jadhav is correct or the Secretariat staff is correct.

MR DEPUTY CHAIRMAN: The notice I have got is dated 26th July, 1984. (*Interruptions*). Please here me first. It reads:

"Capitation fees in medical colleges, opening of new medical colleges in Maharashtra, commercialisation of medical services and very basic concept of medical education in India."

This is signed by the hon. Members. He has referred to the Maharashtra State.

श्री जे० के० जैन : "इन इण्डिया" सर । अब मेरा निवेदन है कि इसको किसी और दिन ले सकते हैं ... (**व्यवधान**) ...

श्री उपसभापति : सुनिए, कोई भी सवाल आप पूछें, मंत्री जी उसको जवाब दें, तो हमें कोई भी आपति नहीं है ।

श्री रामानन्द यादव : यहां तो आप देख रहे हैं जो धो उन्होंने लिखकर दिया है ... (**व्यवधान**)

श्री उपसभापति : महाराष्ट्र लिखकर दिया है । इस में भी महाराष्ट्र लिखा गया है...

SHRI VITHALRAO MADHAVRAO JADHAV: I have given the notice about medical education in all India. I have given two notices. In the first notice I have referred to Karnataka also.

SHRI J. K. JAIN: Why this lapse, Sir?

श्री उपसभापति : वह नोटिस लेप्स हो जाती है । हर हफ्ते के लिए अलग नई नोटिस होती है ।

SHRI PARVATHANENI UPENDRA: There is no objection to enlarge the scope of the discussion, if you agree.

MR. DEPUTY CRAIRMAN: You can put any question you want. There is no hindrance on that point

श्री जे० के० जैन : आप कृपा करके मंत्री जी से पूछ लीजिए क्या वह सारे राज्यों के बारे में जवाब देने को तैयार हैं ।

श्री रामानन्द यादव : आपने कह दिया, बादमें ...

श्री उपसभापति : मैंने कह दिया मंत्री जी जवाब देंगे, आप सुनते नहीं

श्री रामानन्द यादव : हम बहुत सुनते हैं और पढ़ते हैं ।

MR DEPUTY CHAIRMAN: Mr. Shankaranand, and you prepared to answer for all the States; otherwise we shall postpone it for tomorrow, The Minister has not answered any thing so we can postpone it for tomorrow, then all the States will be included. He is keeping quiet.

श्री रामानन्द यादव: मेरा एक सुझाव है, आप सक्षम हैं, स्वयं ही तरमीम कर दीजिए ।

श्री उपसभापति : मैंने कितनी बार कहा है जो सवाल पूछना चाहें पूछ सकते हैं, कोई रुकावट नहीं है । आप बार-बार उसी बात पर कह रहे हैं । मैंने मंत्री जी से पूछा क्या आप सवालों का जवाब दे सकते है, मंत्री जी चुप रह गये । . . (**व्यवधान**) तब मैंने समझा वह तैयार न हों, उनके पास फैक्टस, फिगर्स न हों । इसलिए मैंने कहा इसको कल ले लिया जाय । मंत्री जो तैयार हों तो आज भी ले लिया जाय ।

THE MINISTER OF HEALTH AND FAMILY WELFARE (SHRI B. SHANKARANAND): Mr. Deputy Chairman, Sir, I have listened to the hon. Members on the question of charging of capitation fee for admission in medical colleges in Maharashtra. Sir, it is not only in Maharashtra but in other States also like Karnataka and Andhra Pradesh where capitation fees are charged.

SHRI J. K. JAIN: That is the point.

SHRI B. SHANKARA NAND: Sir the House may recall I have made a statement on more than one occasion on the floor of this House against charging of capitation fee. So, it is not a new thing. We are totally opposed to this method.

MR. DEPUTY CHAIRMAN: Now Mr. Jadhav will call the attention and then Mr. Shankaranand will make the statement.

CALLING ATTENTION TO A MATTER OF URGENT PUBLIC IMPORTANCE

Reported charging of capitation fee for admission in Medical Colleges

SHRI VITHALRAO MADHAVRAO JADHAV (Maharashtra): Sir, I call the attention of the Minister of Health and Family Welfare to the reported charging of capitation fee for admission in Medical Colleges in Maharashtra and the action taken by Government in the matter.

SHRI B. SHANKARANAND: Mr. Deputy Chairman, Sir, may I submit that the statement mainly relates to Maharashtra State. But I am willing to answer the question about other States also.

According to the information received from the Government of Maharashtra, permission has been given to three private institutions in the State to start medical colleges on no-grant-basis from the academic year 1984-85.

The annual intake capacity of each of these three colleges should not be more than 100. The yearly tution fee should not be more than Rs. 30,000/-. 20 per cent seats in each medical college can be filled in by the concerned Management at its own discretion subject to the condition that the candidates must have obtained minimum 50 per cent marks in the qualifying examination. Another 20 per cent seats are to be filled in by the State Government and 60 per cent by the Management strictly on merit basis.

The State Government have further informed that the standards of medical education will be maintained as per the norms prescribed by the Medical Council of India. Such of the institutions as do not have the prescribed hospital facilities, can make a request to the State Government for making available such facilities and such a request will be considered on merit. A High Level Committee of State Government would be appointed to monitor standards of medical education and the progress of these institutions and to make suitable recommendations in this regard to the State Government . The institutions will have to give in writing to the State Government that they will not ask for any financial aid from the State Government on account of recurring and non-recurring expenditure.

The Central Government is not in favour of opening of any new medical colleges in the country and is opposed to charging of capitation fee for admission to medical institutions. The admission to all medical educational institutions should be on merit, with necessary reservations prescribed in that regard.

SHRI VITHALRAO MADHAVRAO JADHAV: Mr. Deputy Chairman, Sir, while raising this Calling Attention in this House, I have got three important things in my mind. The first thing is that the Government of Maharashtra had taken some decisions last year about starting of private engineering colleges. So they have started 49 engineering colleges and 76 poly-technic colleges. Prior to the starting of these engineering colleges and polytechnic colleges, a large number of students were going to the neighbouring State of Karnataka where the capitation fee is very high. So likewise in medical education also, if I am not wrong, I have been told by several students that in Karnataka there are medical colleges which charge a capitation fee of about Rs. 3 lakhs. I do not know how much they take in white and how much in black money. So, the Maharashtra Government has thought that since every year about 400 to 500 boys are going to Karnataka and about Rs. 10 crores are being shifted from Maharashtra to Karnataka, why we should not start